

Magistrates of Glasgow

December 1759. 56/

[Lord Kaims.]

visited Tuesday 5th Feb.

MINUTES

JOHN WILSON and other Land
holders in the City of Glasgow;

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AGAINST

The Magistrates of Glasgow.

[Partibus ut in processu. The ... called.]

Duchinleck By the acts of Parlt
it is intended that the trade should bear
a proportion. but it cannot be an equal
proportion. risks of trade re-
quire *east*. no rule appointed
to the magistrates in naming
the stent masters or in laying
on the Cess. this matter ought
to be trusted to the magistrates.

His bet. Trade ticklish even
the facts made publick in this
cause may affect the insurance
of their shipping
Hanes disapproves of the manner
of pleading the cause on the part
of the magistrates.

The only proportion that can
be fixed must be in propor-
tion to their means. but
this proportion cannot be
an arithmetical one
It is so difficult to fix this
proportion that it must be
left to the Conscience of
the stent masters.

Our taxes are laid in general
on individuals there is no
rule for laying it upon *clases*
of people it ought to be
laid on the different quarters
of the town & all that the
stent masters should do

is to fix the proportions
each quarter should pay
of the tax, and it should be left to them. It

will be otherwise unextinguishable.

PITFOUR for the Pursuers refused the Interlocutor of
the Lords, 16th June last, finding the Heretors and
Burgesses, in respect of their Trade and Manufacture, liable
in payment of Cess imposed by Act of Parliament on the
City of Glasgow, and that the Magistrates and Stent-masters
ought to rate the same accordingly; with the other Inter-
locutor of the Lords, the 8th August last, finding it unne-
cessary to give further Directions anent proportioning the
said Cess, than what was contained in their former Inter-
locutor; and now represented, That notwithstanding the
Judgment of the Court, the Magistrates have not proceeded
in a just and equal Way to proportion the Cess for the Year
preceeding October last, that is, by calling the Stent-masters
before them, and ordering them to make a Report on Oath;
but, on the contrair, have at their own hand followed the
old Method complained of, that is, by laying on three
fourths of the Cess on the Houses, and only one fourth on
the Trade, which is no equal Proportion, as it is notour
the Trade of Glasgow is of very great Extent, and the

Minto. the trade ought to pay nothing, but it is subject
to a part of the cess by the acts of Parliaments: but the
magistrates are commissioners for laying the tax, and it should be left to them. It

will be otherwise unextinguishable.
Dunston grange It is not competent for the magistrates to fix the proportions & inextricable
The power of Stenting altho: from the 1623 to the 1687 the magistrates stent
from the 1623 to the 1687 the magistrates stent
who are to be stented 1597. all here in the Burgh, all traders, all who have 200 lb. of
ready rent.

Stock in Trade much more, as double the Value of Houses: And therefore insisted, that his Lordship would still rectify the said Proportion, by laying on two thirds on the Trade, and one third on the Houses.

Mr Solicitor for the Magistrates answered, That the Action brought by the Land-holders against the Magistrates was founded upon a Complaint, That by the annual Acts directing the Method of levying the Cess upon the Burgh, the Stent-masters were directed to levy a certain Rate upon the Rents of Houses and Lands, and the deficient Sum necessary to make up the whole Cess upon the Inhabitants, according to their Trade; by which Rule, and by the great Increase of the Rents of Houses and Lands within the Burgh, the whole Cess had for some Years preceding this Action been wholly paid by the Land-holders, because the Rate upon the Rents so increased had been sufficient for paying the whole Cess, and consequently nothing remained to be levied from the Traders. That the Lords had so far corrected this Rule as to find, ' That not only the Houses ' and Lands, but likewise the Burghesses, in respect of their ' Trade and Manufactures, are liable in Payment of the ' Cess; and that the Magistrates and their Stent-masters ' ought to rate the same upon the Heretors and Burghesses ' accordingly.' That, before pronouncing this Interlocutor, the Magistrates and Council being willing to stop the Clamour which had been raised by these Pursuers, and so far vary the former Rule of levying the Cess, which had been long established in the Burgh, as to direct the Stent-masters appointed for levying the Cess for the Year 1758, by a certain Proportion betwixt the Rent and Trade, viz. one fourth upon the Trade, and three fourths upon the Rent: And this Alteration, though complained of by the Traders, had so far the desired Effect, that a great Number of the Landlords who had concurred in carrying on the above
Action,

19. June
1759.



Action, withdrew their Concurrence, and were perfectly satisfied with what the Magistrates had done: But some of the Pursuers, whose Names appear in the Libel, would not be satisfied without bringing this unnatural Question betwixt the landed and trading Interest of the Burgh to a legal Trial and Decision in this Court; and accordingly obtained the general Interlocutor above-recited. That the Pursuers, not being satisfied with the above Interlocutor, applied to the Lord Ordinary, in order to have the Proportion of the Cess which should be payable by the Landholders and Traders ascertained and determined by the Court. But, on the Report of the Lord Ordinary, 'the Lords found, That it is neither necessary nor proper for the Court to give more particular Directions to the Magistrates of *Glasgow* touching the proportioning the Cess betwixt the Heretors and other Burghesses than what is contained in their former Interlocutor.' That the Pursuers have now again complained to your Lordship against the Magistrates, for not altering the Proportion which was established for the preceding Year, by increasing the Proportion of the Cess upon the Trade, and lessening the Proportion upon the Land Rent. And very strong Things were said upon this Occasion, as if the Magistrates had acted from an undue Partiality, and contrary to the Meaning and Intention of the Interlocutors of the Court, in not calling the Stent-masters before them, and ordering them to make a Report upon Oath as to the Proportion which they should think proper to impose upon the whole Landlords and Traders of the Burgh. To all which it is answered, That the Magistrates are conscious of no Partiality to the particular Traders of the Burgh in opposition to the Landlords; but as this City has rose to its present Consideration altogether by Trade, and that it has been the constant Study and Practice of their Predecessors to make the Burdens upon Trade as few and easy as possible, so the Magistrates will

will always think it their Duty to follow their Example, which they think essential for preserving and improving the Trade of their City, which, by its natural Situation, is subject to more Disadvantages and Expences in carrying on foreign Trade, than any other trading Town or City in his Majesty's Dominions: And they hope that your Lordship, who knows so well how ticklish a Thing Trade is, and how apt it is to change its Situation and Channel, from Causes which at first appear inconsiderable, will not consider the above Rule of Conduct as proceeding from undue Partiality, or want of Regard in the Magistrates to the Orders of this Court, as communicated to them by the above Interlocutors. And, more particularly, the Magistrates do say, That before appointing the Stent-masters, and fixing the Rules for levying the Cefs for the Year 1759, they thought it their Duty to enquire into the State of the Trade of the City, and of the landed Interest, and to take the Advice of the most considerable and intelligent Inhabitants, both Land-holders and Traders, as to the Proportion which should be imposed upon Trade for that Year; and having laid the Matter before the Town-council, which consists of a Number of the most considerable Land holders and Traders of the City, the Council were unanimously of Opinion that it would be highly improper and unjust in the Magistrates to alter the Proportion of the Cefs for this Year, or to impose any greater Proportion thereof upon the Trade for this Year than one fourth: And accordingly the Magistrates and Council, when they appointed their Stent-masters for levying the Cefs 1759, gave the above Rule to the Stent-masters for their Direction; and the Act of Council sets forth the Reasons, *viz.* That the Trade of the City for this Year, instead of yielding Profit to the Merchants, had, from various Causes, been attended with very great Loss to many, and with some Loss to almost the whole Traders of the City. The Fact is but too well known, and will not be denied by the Pursuers themselves.

selves. The foreign Trade of *Glasgow* lyes in two Articles, one to the Tobacco Colonies, and the other to the *West-India* Islands. As to the Tobacco Trade, the Importation for the Year 1759 is not above one half of what had been imported for several Years before, and, by a most extraordinary Rise of the Price in *Virginia*, that Importation has been and will be attended with a very great Loss to the Importers, instead of Profit. And as to the *West-India* Trade, the Number of Ships taken by the Enemy this last Year has been so great, that both the Merchants concerned in the Trade, and the Under-writers, instead of Profits, have made considerable Loss this Year. And though these numerous Captures have occasioned a greater Demand and Exportation of our Manufactures, to supply the Loss of what was taken by the Enemy, yet the greatest Part of these Goods are supplied from other Places; and however advantageous the Trade may have been to them, yet it has been attended with very considerable Loss to the Merchants of *Glasgow*. In these Circumstances the Magistrates could not think it was their Duty to impose any additional Burden upon Trade for this Year, when the Merchants, instead of making Profit, have suffered so general a Loss in every Branch of their foreign Trade. The Cess or Land-tax is not established by a standing Law; it is an Aid granted by Parliament to his Majesty from Year to Year, and the Magistrates of Royal-burghs are appointed Commissioners, and are impowered to set down such Rules and Orders as may be most effectual for the bringing in of the said Supply. The Magistrates are the best Judges of the Circumstances of their own Burgh, and in what Proportion the Cess imposed upon the Burgh ought to be paid by the Land-holders and Traders. The Legislature has given them full Power for this Purpose, and there is no Decision upon your Lordships Records where the Magistrates of Royal-burghs have been controlled in the Execution of these Powers. The Court,

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indeed, found in this Action, that the Cess must be levied from the Traders, as well as from the Land-holders; but by their last Interlocutor they refused to tie down the Magistrates to any fixed Rule or Proportion: And it must occur to your Lordships, that no fixed Rule can be established in this Matter, because in one Year the Trade of *Glasgow* can better bear the Payment of the half of the Cess than they can bear the fourth Part of it in another Year. For this Reason the Court thought proper to leave the fixing of that Proportion to the Magistrates; and they hope they have acted agreeably to the Trust reposed in them by Parliament, and to the Intention of the Interlocutors pronounced in this Court: They are sure they acted from no other Motive but the general Interest of the whole City, and they are sure they have the Acquiescence of three Fourths of the landed Interest in the Burgh, in the Proportion fixed by them for last Year: And if your Lordships give Encouragement to Processes of this Kind, carried on for the Humour of a few Heretors of a very great City, the Consequences must be very disagreeable. As to that Part of the Complaint against the Magistrates, for not leaving it to the Stent-masters to fix the Proportion to be paid by the whole Heretors and Traders in the Burgh *in cumulo*, without any previous Rule; the Magistrates must own, they are at a Loss to understand it, because no such Method was ever practised in their Burgh, nor in any other Burgh, so far as they have been informed: Their constant Method, and, they believe, the Method followed in all the other Burghs, has been for the Magistrates to lay down certain general Rules to the Stent-masters for proportioning the Cess upon the Land-holders and upon the Traders; they are expressly empowered to do so, by the annual Staute, and the Laws to which it refers: And, indeed, the Plan proposed by the Pursuers, would render the Magistrates who are appointed Commissioners for executing the Land-tax Act,

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of no further Use, than to name Stent-masters and these Stent-masters would in effect become the Commissioners for executing the Law.

LOCKHART replied, That as the Act of the Town-council of *Glasgow* referred to in the foregoing Minute of Debate, evidently appears to be calculated to evade and elude that Judgment which the Landlords of *Glasgow* have already obtained from the Justice of this Court, finding and declaring, ' That as the Heretors of Lands, Houses and ' other heretable Subjects within the City of *Glasgow*, so ' the Burgeses, in respect of their Trade and Manufactures ' within the same, are liable in Payment of the Cess imposed by Act of Parliament upon the City of *Glasgow* ; ' and therefore finding that the Magistrates of *Glasgow*, and ' the Stent-masters appointed by them, ought to rate the ' same upon the Heretors and other Burgeses accordingly ; ' and under certain frivolous and evasive Pretences, to continue that Oppression upon the Land-holders, which had been so long and so loudly complained of; the Honour of the Court, as well as the Interest of the Land holders, was concerned, that due Obedience should be given to the fore-said Judgment, that so it might attain the Effect intended by it, *viz.* That the Trade, as well as the landed Interest, should bear a rateable Proportion of the Cess, according to the different Values of these two Estates ; whereas the plain Language of this Act of Council was, to perpetuate the Oppression and Injustice formerly complained of, under Colour of these annual Acts of Council, which would require as many annual Processes, all to no Purpose : For as no Suspension was competent to stop Payment of the Cess, which therefore behoved at all Hazards to be paid, however unequally laid on ; the Forms of judicial Proceeding in the Court of Session were so slow, that before Redress could be obtained as to one Year, the Cess of the next Year

Year would be laid on, and Pretences would never be wanting to give some Sort of Colouring to such iniquous Proceedings.—The general Trade of *Glasgow*, both foreign and domestic, was never at a higher Pitch than it has been for some Years past; particularly this last Year: And tho', to outward Appearance, foreign Trade, during the Time of War, is exposed to the Risque of Captures, the Danger of which makes the Premium of Insurance higher; that is much more than compensated to the *Glasgow* Merchants by the great Demand for our Home Manufactures, which is the great Article of Trade in that City, the Prices of which rise proportionally according to the Demand.——It is now a settled Point, that Trade and Manufactures are equally liable with the landed Interest within Burghs, to bear a rateable Propotion of the public Taxes; and, indeed, it is surprising that this should ever have been made a Question of: Notwithstanding of which, it appears, that a most oppressive Practice had prevailed within the City of *Glasgow*, that the Magistrates and Town-Council, generally composed of the most extensive Traders in that City, did so order Matters, that the whole Cess, and even more than the Cess, was annually levied from the Land-heretors, and not one Farthing thereof upon the Trade. They were conscious that this could not stand the Test of a fair Trial; and therefore, when they found the Heretors so irritated, by the Continuance of this Oppression, that they were resolved to sue for Redress, they graciously condescended, by their Act of Council for the Year 1758, to direct their Stentmasters to lay one Fourth of the Cess upon the Trade, and the remaining three Fourths upon the Land-holders. And upon this Footing Matters stood when the above-recited Judgment was obtained.——The Land-holders were justly apprehensive, that though the Point of Law was thus given for them, yet if some Regulations were not laid down for establishing some Rule of Proportion between the land-

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ed Interest and Trade, Pretences would never be willing to continue the same Oppression: They did therefore insist before the Lord Ordinary, to have that Proportion established, subject to after Alterations, upon reasonable Causes shown; and as a Specimen whether the Magistrates meant to act *bona fide* in this Matter or not, and really, not similitely, to give Obedience to the Judgment of the Court, that they should set forth by what Proportion they meant to impose the Cefs of the then ensuing Year. This the Magistrates disputed they were not bound to do; made large Professions of their Intentions to act fairly and impartially in the Premises for the Time to come, and so far prevailed, that when this Question was reported, the Lords found, that it was neither necessary nor proper for the Court to give more particular Directions touching the proportioning of the Cefs, than what was contained in their former Interlocutor: And as from thence the Magistrates seem to have flattered themselves with the Hope that the Court was never to interpose in this Matter, but to leave the proportioning of the Cefs between the two Classes, according to their own Arbitriment and Discretion; so, the very first Occasion that offered of proportioning the Cefs for this last Year, they had the Boldness to proceed upon the same Plan: They would not leave it to the Stent-masters, who are sworn *de fideli*, to proportion the same between the Trade and landed Interest, but took it upon themselves by an Act of Council, proceeding upon a most affected and false Narrative of the Losses and Inconveniencies to which Trade was exposed in the present State of Affairs, without any the least Proof to verify these Allegations, to direct the Stent-masters to proceed by the same Rule as the Year before, to lay three Fourths of the whole Cefs upon the landed Interest, to be levied from them according to their real Rents, and the remaining one Fourth upon the Trade and Manu-
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tures, leaving it to the Stent-masters to proportion the same amongst the Traders, Burgeſſes, &c. as they ſhall eſtimate. — The Iniquity and Partiality of theſe Proceedings, calculated to evade and elude the Judgment of this Court, is ſo apparent, that no Words can diſguiſe it. It is a notorious Fact, and which, if needful, can be proved, that the Trade of *Glaſgow*, foreign and domeſtic, their Manufactures, &c. were never at a higher Pitch than this laſt Year, nor greater Profit earned by the Merchants and Manufacturers; in ſo much, that, making the moſt ample Allowance for the Encouragement of Trade, and even for the Riſque to which it may be expoſed, or the Expence of Inſuring, no Rule can be eſtabliſhed for proportioning the Profits of Trade to the Rent of Lands, by which it will not appear, that the Trade is at leaſt as five to one, whatever more. What a ſtrange Appearance then muſt it have, that by this Act of Council they have continued the oppreſſive Burden of three Fourths upon the landed Inter-eſt, and one Fourth only upon Trade! — One Example of this flagrant Injuſtice ſhall be mentioned. The Stocks of the two Banks in *Glaſgow* amount to a very large Sum; and upon this they circulate Notes to the Extent of at leaſt *L. 150,000. Sterling*. But when we look in to the Proportion of Ceſs laid upon theſe Banks, we find that the one Bank is only ſtated at *L. 8.* and the other at *L. 5.* by which Means both Banks pay no more Ceſs, than a Tenement yielding *L. 140.* Rent. Let any Man lay his Hand to his Conſcience, and ſay whether this is juſt. If each of theſe two Bodies muſt bear a Proportion of the Ceſs, there muſt be ſome Rule by which that Proportion may be fixed, ſo as to do equal Juſtice to both. That a Wrong may be done, by over-charging the one beyond its juſt Proportion, is undisputed. Where-ever there is a Wrong, there muſt be a Remedy. Were the Magiſtrates and Town Council, to act the Part they ought, as the
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common Guardians to both, they would study to do equal Justice; but being themselves so much more deeply interested in the one Branch than in the other, and as they have thus taken Side with the Trade, in Opposition to the landed Interest, and stated themselves as Defenders of the Claim made for the Trade, to be altogether free of Cess; what Justice can the landed Interest expect from them? If their Proceedings had been fair and impartial, it might with Reason have been expected, that they would have set forth to your Lordships, upon what *Data*, or by what Rules they did establish this Proportion of one to three. This they have carefully avoided: They know well, that no *Data* or Principles were assumed as the Foundation of this Act of Council, but their arbitrary Will to continue the Oppression; and therefore, the Pursuers now call upon them in their Duply, clearly and explicitly to set forth the *Data*, Rules or Principles by which they fix this Proportion, or upon what Proofs and Evidences they proceeded; and from these your Lordships will be enabled to judge, whether they have acted fairly and impartially. — The Pursuers will beg Liberty still to doubt, whether they had any Power to pass such an Act as this, by their own arbitrary Will and Pleasure, to ascertain without any Rule, but their own Caprice, what Proportion of the Cess the landed Interest should bear. It is the Duty and Business of the Stent-Masters, to proportion the Cess, as amongst Individuals, so between the different Classes. The Value of the landed Interest is known; and, if the Stent-masters are in condition to form such a Judgment of each Trader's Stock and Profit, as to proportion their Part of the Cess amongst the several Individuals, they must be equally in condition, by the same Rule of Judgment, to say, upon their great Oaths, what Proportion of the total Cess the Trade and Manufactures should bear to the landed Interest, making all reasonable Allowances
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both for the Encouragement and Risque of Trade, and Expence of Insurance. But if the Magistrates and Town-Council are intitled to assume to themselves this Power of Division between the two Bodies, they must be able to satisfy your Lordships that they have proceeded by some Rule, and to justify the Equity of that Rule, which, it is believed, will be too arduous a Task in the present Case.—And therefore the Pursuers humbly hope, that the Court will interpose in some effectual Measure to give Relief against such a crying Oppression. It is said, that many of the Landlords, who had originally concurred in the Action, have withdrawn their Concurrence, and are satisfied with the Regulation complained of: But as this Allegation is unsupported by any Evidence, and is believed to be a Misrepresentation, it would not vary the Argument, suppose the Magistrates, by their Influence, had prevailed on some few to withdraw. Some of those who are most deeply concerned in Trade, have also some small Heretage, and it is possible that these may be disposed to sacrifice their lesser to their greater Interest; but the Body of the Landlords, who feel the Injustice, are steady in their Purpose of praying Relief. And this leads to observe, what is notoriously known to be true, and which evinces the Iniquity of this Rule, and the infinite Disproportion between the Trade and the landed Interest, that there are many late Instances where Merchants in *Glasgow* have died worth 20, 30, and *L.* 40,000. *Sterling*, all the Proceeds of Trade; though there is scarce an Instance of one Landlord that gains the bare Interest of the Money laid out in Buildings; and the Defenders themselves have fairly owned, that it is the Trade of *Glasgow* has brought it to its present State of Affluence: And as the same Cause continues, must it not strike every Mortal at first View, to be unjust beyond Measure, that, in proportioning this common Taxation between the two Bodies,

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so great a Share should be laid upon the lesser Interest, and so small a Share upon the greater Interest! The Defenders have been pleased further to say, that *Glasgow* is inconveniently situated for Trade: If so, how comes it to flourish so much? The same Place cannot have all Advantages of Situation in trading to all the different Parts of the Globe: But it is well known, that, for the Tobacco Colonies, and *West-India* Islands, where the chief Trade lyes, it is more conveniently situated than most Places in *Great-Britain*, and doubly so than any Port on the East Coast.

ADVOCATUS duplied, That the Pursuers in their Reply have taken the Liberty of throwing out a great deal of indecent and groundless Abuse against the Magistrates of *Glasgow*: They have represented them as guilty of the most oppressive Conduct towards the Land-holders, in executing that Part of their Duty which is specially committed to them by Parliament, the laying on the Land-tax upon the Burgh: They have represented them as guilty of a Contempt of your Lordships Authority, by endeavouring, under false and simulate Colours, to evade the Effect of the former Judgment of the Court in this Cause, from a Motive of undue Partiality for their own Interest as Traders, and of the most unjust Oppression of the Pursuers and the other Land-holders. Whether this Language proceeds from any of the few Pursuers whose Names appear in this Action, or from their Council, gives the Magistrates very little Concern; they know it will make no Impression with your Lordships; they are conscious they do not deserve it: And as they acted from no other Motive but a Sense of their Duty, so they have the Satisfaction of knowing, that what they did was and is approved of, not only by the whole Body of the Inhabitants, but also by the Body of the Land-holders, with the Exception of

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a very small Party, instigated by one or two Persons who have been pleased to distinguish themselves in the Conduct of this Process. In order to give your Lordship a clearer View of the Origin of this Question, they beg leave to refer to their printed Memorial formerly before the Lords; from which it will appear how erroneously the Pursuers have stated the Subject-matter of the former Debate, and the Import of the Interlocutor of the Court thereupon. The Process was brought for correcting the Rule which had been followed in the Burgh for Time past Memory, whereby the Stent-masters were directed to raise the Land-tax by a certain Rate upon the real Rent of Lands and Houses in the Burgh; and, so far as that was deficient of the Town's Quota, the Remainder to be assessed upon the Traders by the Stent-masters. By the exorbitant Rise of the Rents of Houses within these few Years, the Rate imposed upon the Rent came to answer the whole Land-tax; and consequently, no Part of it was levied upon the Traders. This the Land-holders complained of, and your Lordships corrected the former Rule, by finding, That the Trade, as well as the Land-rent, was directly liable to be cessed, and ought to be rated accordingly. The Act of Council which had been past in *September 1758*, whereby the Magistrates and Council had, of themselves, laid a certain Proportion, *viz.* one Fourth of the Cess to be levied upon the Trade, was not under the Consideration of the Court; it was the ancient Rule only by which the Trade was in effect made subsidiary, liable, and for several Years had truly paid nothing, that the Court had under Consideration, and meant to correct by their Interlocutor: And accordingly, when the Pursuers moved, that the Magistrates should be obliged to condescend upon the Proportion by which they proposed to impose and levy the Land-tax for the Year 1759; your Lordships found, that the Demand was neither necessary nor proper: And the Defendants

fenders do apprehend, that these Proceedings do show, that it was neither understood by the Pursuers, nor intended by your Lordships, to deprive the Magistrates of the Power of fixing the Proportions betwixt the Trade and Land-rent, according to the Circumstances of the Burgh, nor to oblige them to devolve that Power upon their Stent-masters; no such Thing was ever practised in this Burgh, nor, in so far as they know, in any other of the Burghs of the Kingdom. The Statute appoints the Magistrates Commissioners for ordering the levying and collecting the Land tax; they have always been in the Practice of laying down Rules annually, for directing the Stent-masters in their Conduct: The Law impowers them to make these Rules; your Lordships may alter them if you see Cause, but you will not deprive the Magistrates of the inherent Powers committed to them by Statute, or transfer these Powers to the Stent-masters appointed by the Magistrates for assisting them in levying this Tax.

That the Trade of *Glasgow*, both foreign and domestic, has increased for several Years past, is certain: That it has arrived to a higher Pitch at present, than in any former Period, is no Dishonour to their Administration: But it is well known, that a very great Part of the Trade of this City, is carried on upon Credit; and therefore the Pursuers Comparison betwixt the Stock employed in Trade, and the Stock or Value of the Lands and Houses in the Burgh, will not hold; nor do the Magistrates know by what Rule it can be investigated. And, if the Profits made by Trade, compared with the Rent drawn from Lands and Houses, is to be the Rule for proportioning the Land-tax, the Magistrates must, in the *first* Place observe, that the Comparison betwixt a hundred Pound earned in Trade, under great Hazard, and by the personal Labour and Application of the Merchant, and a hundred Pound of yearly Rent drawn by the Landlord, without Hazard, and without

out Industry, is not just. And, *2dly*, If the above Comparison were to be the Rule, the Pursuers cannot justly complain for the Proportion established upon the Trade and Land-rent for the last Year; because it is certain, and known to some of the Pursuers themselves, that the foreign Trade of *Glasgow*, for the Year 1759, instead of Profit, brought Loss to almost every Merchant concerned in it: So the Act of Council has asserted as the Reason for not imposing a higher Proportion upon the Trade for that Year. The Pursuers are pleased to say, That though the foreign Traders have lost, the Manufacturers have gained by the great Exportation of Goods; and the Manufacturers are subject to the Land-tax, as well as the foreign Traders. The Defenders acknowledge, That your Lordships have so found by your Interlocutor; and, they believe, agreeable to Law: But you have left to the Magistrates, and their Stent-masters, the Power of stenting the Traders and Manufacturers, according to such Rule as they shall think just and reasonable; and the Magistrates have always thought, that their Manufactuerers ought to be dealt with very gently; though considerably increased of late, they are still in their Infancy, and cannot bear any considerable Burden. The great Topic and Foundation of the Pursuers original Argument for subjecting the Burgeses and Inhabitants, as well as the Land-holders, to the Land-tax, was the exclusive Privilege of foreign Trade, conferred by Law upon the Royal Burghs; but the Privilege of carrying on Manufactures is not confined to Royal Burghs. And, in Fact, it is found, that Manufactures of all Kinds do rise and flourish most in Villages, where the Manufacturers are subject to the fewest Burdens. And they submit it to your Lordships, what the Consequences would be, if the Magistrates of *Glasgow* should give way to the Pursuers Doctrine, and impose upon the Manufacturers of their City such a Proportion of Cess as is here suggested by the Pursuers?

Pursuers? It behoved, infallibly, to discourage the Settlement of new Manufactures in the Place, and drive many of those already established to other Places, where they will not be subject to the like Burdens. The Pursuers complain loudly of one Instance of the Defenders Partiality, in the small Proportion of the Cels laid upon the two banking Companies. But this was the doing of the Stent-masters, of whose Power the Pursuers seem so fond. Every Member of these banking Companies are stented according to their Trade and Substance in all its different Branches; and therefore there could be no Reason for stenting the banking Companies according to the supposed Extent of their Capital and Profits. So far as the Defenders know, there never was any Land-tax imposed upon the Banks of *Edinburgh*, whose Capital and Profits far exceed those of the banking Companies in *Glasgow*. *John Wilson*, who is known to be the Author and Conductor of this Process against the Magistrates, acquired his Estate in Trade, when it was subject to less Burden than it is at present: He is now withdrawn from Trade, and has employed Part of his Substance in building a new Tenement of Land, and, in that Character, has put himself at the Head of the Land-holders, against the Traders of the Burgh: The Residue of his Estate he employs in the best and securest of all Trades, which is upon Bonds, and other Securities, at 5 per cent. But Mr *Wilson* refuses to pay any Stent in respect of his Money-estate so employed, while, at the same Time, he insists that the Profits of the Trader and Manufacturer, earned with great Hazard and Industry, shall be highly taxed. If his Opinion is well founded, he cannot justly complain of the Stent-masters for not imposing a higher Stent upon the banking Companies, whose sole Trade, though to a greater Extent, is of the same Nature with his own. The Pursuers are pleased to complain, That the Act of Council proportioning the Cels for the Year 1759 proceeded without any Proof of the Distresses upon

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Coalston act 1597. 1621. 1633. 1667 by the proportion is fixed to be according to his rent, living, goods & gear. and the Stent masters ought to be put upon oath to stent according to this rule. But we have no power to controul the Stentmasters ~~plemore~~ we have no power to fix the proportion in levying the cess.

The magistrates of Glasgow have not abused their power.

The times are much altered our old Laws about trade very absurd. but all political foreign Trade, therein set forth as the Motive for not increasing the Stent upon Trade for that Year. But as the Fact was but too notorious, and consistent with the Knowledge of almost every Member of Council, there could be no Occasion for taking a Proof of it. As to what the Pursuers insist upon, that the Magistrates must explicitly set forth the Data, Rules or Principles upon which the Proportion ascertained by them does proceed; the Magistrates do say, That they have proceeded upon the same Principles that their Predecessors have done, ever since the Establishment of a Land tax in Scotland: That it is their Opinion and Belief, after the most full Deliberation, that the Proportion established by them for the Year 1759, betwixt the Trade and landed Interest, was a just and reasonable Proportion: They know no other Rule by which the Magistrates of any other Burgh of the Kingdom have acted; and they understood that the Legislature and your Lordships trusted to their Opinion, as best Judges of the Circumstances both of the landed and trading Interest of the Burgh. As to what is said of the many late Instances of Merchants in Glasgow who have died worth twenty, thirty, and forty thousand Pound; the Defenders with the e were more Foundation for it; but it is of a Piece with the Pursuers other Allegations, and is as much beyond the Truth, as their Allegation, That there is scarce an Instance of one Landlord that gains the bare Interest of his Money, is below the Truth: For it was shown, in the printed Memorial formerly given in to Court, and could not be denied by the Pursuers, that almost every House in Glasgow, which can be set to a Merchant or Manufacturer of any Rank, has been raised, within these few Years, betwixt twenty and thirty per cent. of the Rent: So that, with all this Cry of Oppression, the Landlords in Glasgow are in a more flourishing State, and draw much more Rent from their Subjects, than ever they did in any Period.

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Perhaps there may be a redress if the Convention has injustice in this court, but if a complaint is given in the complainers name the Convention is done
The Lords find that they cannot relieve the Complainers & therefore adhere to their former interloquutor

